

TENNESSEE GENERAL ASSEMBLY
FISCAL REVIEW COMMITTEE



FISCAL NOTE

HB 721 - SB 1142

March 28, 2017

SUMMARY OF BILL: Creates the *Comprehensive Contraception Coverage Act* (Act). Requires any group health insurance policy providing coverage on an expense-incurred basis, every policy or contract issued by a hospital or medical service corporation, every group service contract issued by a health maintenance organization, and every self-insured group arrangement not preempted by federal law, that is issued, amended, renewed, or effective, or delivered on or after January 1, 2018, to provide coverage for all of the following services and contraceptive methods:

- All federal food and drug administration (FDA)-approved contraceptive drugs, devices and other products, whether behind or over-the-counter;
- Voluntary sterilization procedures;
- Patient education and counseling on contraception; and
- Follow-up services related to drugs, devices, products, and procedures covered under the provisions of this Act.

Stipulates that only one FDA-approved therapeutic and pharmaceutical equivalent version must be included in a healthcare policy's formulary, included and covered without cost-sharing. Requires healthcare policies to allow for dispensing of a 12-month prescription of a contraceptive at one time.

Prohibits a group health insurance policy from imposing a deductible, coinsurance, copayment, or any other cost-sharing requirement on coverage mandated by this Act, and further prohibits such policy from imposing any restrictions or delays on the coverage required by this Act.

Authorizes a religious employer to opt out of this coverage mandate, in part or in whole, by providing written notice to prospective enrollees, listing the contraceptive health care services the employer refuses to cover for religious reasons. Authorizes a group health insurance policyholder, whose insurer has elected to not cover contraceptives, to purchase coverage from the insurer at the prevailing small group community rate whether or not the insured is part of a small group. In all instances in which the insurer has elected to not cover contraceptives, the insurer is required to provide enrollees upon enrollment with written notice of their right to directly purchase a rider for coverage of the cost of contraceptive drugs or devices, and provide the additional premium that may apply.

ESTIMATED FISCAL IMPACT:

Increase State Expenditures – \$120,600/FY17-18

\$241,200/FY18-19 and Subsequent Years

Increase Federal Expenditures – \$980,700/FY17-18

\$1,961,400/FY18-19 and Subsequent Years

Potential Impact on Health Insurance Premiums (required by Tenn. Code Ann. § 3-2-111): Such legislation included language prohibiting any increase in the cost of health insurance premiums for contraceptive drugs and procedures being provided by plans that do not currently offer these benefits at the proposed mandated levels.

Assumptions:

- TennCare plans currently cover all oral contraceptives, IUDs, implants, and transdermal contraceptives.
- Coverage of IUDs, emergency contraception, implants, transdermal products, rings, and injectables would have no significant impact on TennCare plans, as they are currently covered.
- TennCare does not currently provide a 12-month supply of oral contraceptives, which is a new requirement created by this Act.
- Based on information provided by TennCare, there were 59,894 users of contraceptives in 2016, equating to a supply of 8,618,052 days; equivalent to 143.89 days per user (8,618,052 days / 59,894 users)
- The total cost of ingredients was \$10,686,091; equivalent to \$1.24 per day (\$10,686,091 / 8,618,052).
- This legislation will require such prescriptions cover a total year or 365.25 days, an increase in current prescription length of 221.36 days (365.25 – 143.89).
- It is assumed at least 25 percent of enrollees would not be enrolled for an entire 12 months of coverage and therefore would not receive 12-months of contraceptives under current law.
- The proposed legislation will result in 14,973.5 enrollees (59,894 users x 0.25) receiving an additional 221.36 days of contraceptives. The increase ingredient costs for TennCare are estimated to be approximately \$4,110,022 (221.36 additional days x \$1.24 per day cost x 14,973.5).
- Due to mandates by the Centers for Medicare and Medicaid Services (CMS), the dispensing fee will increase from an average of \$2.88 to \$9.21 per prescription beginning April 1, 2017.
- The average annual number of scripts filled per user was 4.5.
- A decrease in dispensing fees paid by TennCare of approximately \$1,930,683 [(59,894 users x 4.5 scripts x \$9.21) - (59,894 users x 1 scripts x \$9.21)].
- A net increase in costs for TennCare of \$2,179,339 (\$4,110,022 - \$1,930,683).

- All contraceptive products have a federal medical assistance percentage (FMAP) ratio of 90 percent federal and 10 percent state.
- A recurring increase in state expenditures of \$217,934 ($\$2,179,339 \times 10.0\%$) and a recurring increase in federal expenditures of \$1,961,405 ($\$2,179,339 \times 90.0\%$).
- TennCare does not currently cover over-the-counter, non-systemic contraceptives: spermicides, condoms, or diaphragms.
- According to TennCare, there is no historical claims data representing average use of such over-the-counter contraceptives; therefore, any estimate representing an increase in costs to cover such contraceptives cannot be determined with reasonable certainty, but is considered to be significant.
- The Department of Finance and Administration, Division of Benefits Administration, manages state, local education, and select local government employee group insurance plans.
- Based on information provided by Benefits Administration, the only provision of this legislation which requires additional coverage requirements beyond those currently provided is voluntary sterilization for male policyholders.
- Currently, male policyholders seeking vasectomies pay for such procedures out-of-pocket.
- Based on an analysis of claims data for vasectomies provided to male policyholders, Benefits Administration found that out-of-pocket costs totaled \$23,315 in FY14-15.
- This cost of \$23,315 will now be absorbed by Benefits' Administration carriers.
- A recurring increase in state expenditures of \$23,315.
- The Department of Commerce and Insurance (DCI) is responsible for regulation of the provisions of the legislation. Any cost incurred due to regulation can be accommodated within existing resources without an increased appropriation or reduced reversion.
- The total recurring increase in state expenditures as a result of this legislation is estimated to be \$241,249 ($\$217,934 + \$23,315$).
- The total recurring increase in federal expenditures as a result of this legislation is estimated to be \$1,961,405.
- For rule-making purposes, this Act shall take effect upon becoming law. For all other purposes, this Act shall take effect January 1, 2018, and will apply to policies or contracts entered into, issued, renewed, or delivered on or after January 1, 2018.
- Due to the effective date, only 50 percent of the total recurring increase in state and federal expenditures will be incurred in FY17-18.
- The increase in state expenditures in FY17-18 is estimated to be \$120,625 ($\$241,249 \times 50.0\%$).
- The increase in federal expenditures in FY17-18 is estimated to be \$980,703 ($\$1,961,405 \times 50.0\%$).

IMPACT TO COMMERCE:

Increase Business Expenditures – Net Impact – Not Significant

Jobs Impact - The provisions of this legislation could have a negative impact on jobs in Tennessee if the extent of increased business expenditures requires workforce reductions.

Assumptions:

- This legislation will have a cost impact on health insurance companies in this state, as it will mandate coverage for contraceptive drugs and procedures which are assumed to be in excess of coverage currently provided by such companies.
- This Act prohibits a group health insurance policy from imposing a deductible, coinsurance, copayment, or any other cost-sharing requirement on coverage mandated by this Act.
- Due to numerous unknown factors, including but not limited to, the number of insurance companies in this state which provide coverage at the level mandated by this Act, the number of policyholders affected by this Act, and the subsequent increase in costs which will be incurred as a result of increased utilization of the drugs and procedures mandated by this Act, an impact to such companies cannot be determined with any reasonable certainty.
- Any increase in costs to health insurance plans will be made up through increases in overall premium costs; therefore, the net impact on health insurance companies is considered not significant.
- Additional costs incurred by policies held by employees of a religious employer will be borne by the policyholder, who will individually purchase the respective rider.

CERTIFICATION:

The information contained herein is true and correct to the best of my knowledge.



Krista M. Lee, Executive Director

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